IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3513 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GS THESIA

Versus

UCO BANK

Appearance:

1. Special Civil Application No. 3513 of 1990

MR KETAN DAVE for Petitioner No. 1

MR MEHUL VAKHARIA for KG VAKHARIA for Respondents.

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 12/04/2002

ORAL JUDGEMENT

1. The petitioner has approached this Court under Article 226 of the Constitution of India to seek relief and direction against respondents not to proceed with the

disciplinary inquiry against the petitioner.

1.1. The petitioner who is an employee of respondent Uco Bank, which is a nationalized bank. He was put under suspension with effect from 6/10/1986 on the ground that he had misappropriated certain funds belonging to the bank and disciplinary proceedings were initiated against him. In connection with said misappropriation a criminal case has been filed against the petitioner upon the FIR being lodged by the Delhi Special Police Establishment (CBI) after carrying out the investigation into the matter. The said case has been filed in the Court of the learned Special Judge, Bhadra, Ahmedabad. It is numbered as Special Case No. 24/88. In this petition the relief stated above has been sought for on the ground that since the Criminal Case against the petitioner is pending in the competent Court of law, it will not be desirable to proceed with the departmental inquiry, which would cause prejudice to the petitioner.

1.2. At the time of preliminary hearing this Court admitted the petition and granted interim relief to the effect that pending final disposal of this petition, the respondents may not proceed with the disciplinary inquiry.

2. Today when the matter is called out for final hearing, Mr. Ketan Dave, learned counsel for the petitioner makes statement that so far criminal trial is concerned, recording of the evidence on behalf of the prosecution is over and the matter is at the stage of recording the further statement of the petitioner-accused u/S. 313 of the Code of Criminal Procedure. He has further informed this Court that in all probabilities the trial is likely to conclude within a period of 2 to 3 months. In view of this statement, it appears that the ends of justice would meet if interim relief granted by this Hon'ble Court is extended upto 31/07/2002, time since criminal case pending against the petitioner is likely to be over by that time. Considering the trend of decisions of the Apex Court and differenmt High Courts as on today, it is very clear that pendency of a criminal case cannot be a ground for staying the departmental inquiry as both the proceedings are quite different and they entirely based on the charges levelled. Any how, since the interim relief is operating against the respondents since 2/5/1990, it will not be worthwhile to throw out this petition on that sole ground. However, it is required to be clarified that in case the criminal trial is not over by 31/07/2002, the respondents would be at liberty to proceed further with the departmental

inquiry, which is already initiated against the petitioner.

In view of this, the petition is partly allowed. Interim relief to continue till 31/07/2002. Rule made absolute to the aforesaid extent.

[AKSHAY H. MEHTA, J.]

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